

ITEM NO.22 Court 3 (Video Conferencing) SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CRIMINAL) Diary No.23874/2020

(Arising out of impugned final judgment and order dated 29-10-2020 in BA No. 2750/2019 passed by the High Court of Uttarakhand at Nainital)

SWETABH SUMAN Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION Respondent(s)

(With appln.(s) for I.R. and IA No.113342/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.113344/2020-PERMISSION TO FILE LENGTHY LIST OF DATES and IA No.113338/2020-PERMISSION TO FILE SLP WITHOUT CERTIFIED/PLAIN COPY OF IMPUGNED ORDER)

Date : 05-11-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Petitioner(s) Mr. Vikram Chaudhri, Sr. Adv.
Mr. Nikhil Jain, AOR
Mr. Harshit Sethi, Adv.
Mr. Rishi Sehgal, Adv.
Mr. Keshavam Chaudhri, Adv.
Ms. Ria Khanna, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

- 1 Permission to file the Special Leave Petition without certified/plain copy of the impugned order is granted.

- 2 The petitioner has been convicted on 14 February 2019 of offences under Sections 13(1)(e) and 13(2) of the Prevention of Corruption Act and has been sentenced to undergo imprisonment for seven years. The petitioner has moved an application before the High Court for suspension of the sentence. The record indicates that he has been granted interim bail for a short period on medical grounds. By the impugned order of the High Court dated 29 October 2020, the petitioner has been directed to surrender by 5 November 2020.
- 3 Mr Vikram Choudhury, learned senior counsel appearing on behalf of the petitioner submitted that the petitioner has undergone about thirteen months' of imprisonment after the date of conviction and 4 other co-accused have been admitted to bail. He submitted that the petitioner is suffering from co - morbidities, *inter alia*, requiring him to undergo a knee replacement surgery and that having regard to the presence of Covid positive prisoners within the precincts of the jail at Dehradun, Uttarakhand, the petitioner may be granted an extension of interim bail with liberty to move the application for suspension of sentence pending the disposal of the appeal.
- 4 We have carefully evaluated the submissions urged on behalf of the petitioner, including the medical record which has been adverted to during the course of the hearing by the learned senior counsel. On the balance, in a matter of this nature where the High Court has exercised its discretion by requiring the surrender of the petitioner, we are of the view that it would be inappropriate for this Court to exercise its jurisdiction under Article 136 of the Constitution in the facts of this case. However, we are of the view that after the petitioner surrenders in compliance with the order of the High Court and produces proof of surrender, the High Court should expedite the disposal of the application for the suspension of the sentence pending the disposal of the appeal. Upon the petitioner surrendering in compliance with the impugned order of the High Court and producing proof of surrender, the High Court is requested to take up the application for suspension of sentence expeditiously and preferably within a period of two weeks thereafter.

- 5 Time for surrender is extended until 16 November 2020.
- 6 Subject to the aforesaid, the Special Leave Petition is disposed of.
- 7 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Court Master